

WORKFORCE SERVICES AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies provisions of the Utah Workforce Services Code and the Substance Abuse and Mental Health Act.

Highlighted Provisions:

This bill:

- ▶ modifies civil penalty provisions related to obtaining overpayments for certain public assistance;
- ▶ moves the Safety Net Initiative from the Department of Workforce Services to the Division of Substance Abuse and Mental Health; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-1-104, as last amended by Laws of Utah 2018, Chapter 200

35A-3-603, as last amended by Laws of Utah 2015, Chapter 221

RENUMBERS AND AMENDS:

62A-15-118, (Renumbered from 35A-3-802, as renumbered and amended by Laws of Utah 2016, Chapter 133)

REPEALS:

35A-3-801, as enacted by Laws of Utah 2016, Chapter 133

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **35A-1-104** is amended to read:

35A-1-104. Department authority.

Within all other authority or responsibility granted to it by law, the department may:

(1) adopt rules when authorized by this title, in accordance with the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(2) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(3) conduct adjudicative proceedings in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(4) establish eligibility standards for ~~its~~ department programs, not inconsistent with state or federal law or regulations;

(5) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who is not eligible;

(6) administer oaths, certify to official acts, issue subpoenas to compel witnesses and the production of books, accounts, documents, and other records necessary as evidence;

(7) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(8) receive gifts, grants, devises, and donations or their proceeds, crediting the program designated by the donor, and using the gift, grant, devise, or donation for the purposes requested by the donor, as long as the request conforms to state and federal policy;

(9) accept and employ volunteer labor or services;

(10) reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(11) carry out the responsibility assigned by the State Workforce Services Plan developed by the State Workforce Development Board;

(12) (a) provide training and educational opportunities for the department's staff; and

(b) ensure that any training or educational opportunity described in Subsection (12)(a) complies with Title 63G, Chapter 22, State Training and Certification Requirements;

(13) examine and audit the expenditures of any public funds provided to a local authority, agency, or organization that contracts with or receives funds from those authorities or agencies;

(14) accept and administer grants from the federal government and from other sources, public or private;

(15) employ and determine the compensation of clerical, legal, technical, investigative, and other employees necessary to carry out [its] the department's policymaking, regulatory, and enforcement powers, rights, duties, and responsibilities under this title;

(16) establish and conduct free employment agencies, and bring together employers seeking employees and working people seeking employment, and make known the opportunities for employment in this state;

(17) collect, collate, and publish statistical and other information relating to employees, employers, employments, and places of employment, and other statistics as [it] the department considers proper;

(18) encourage the expansion and use of apprenticeship programs meeting state or federal standards for apprenticeship programs;

(19) develop processes to ensure that the department responds to the full range of employee and employer clients; and

(20) carry out the responsibilities assigned to [it] the department by statute[; and]

~~[(21) administer the Safety Net Initiative as described in Section 35A-3-802].~~

Section 2. Section **35A-3-603** is amended to read:

35A-3-603. Civil liability for overpayment.

(1) A provider, recipient, or other person who receives an overpayment shall, regardless of fault, return the overpayment or repay its value to the department immediately:

(a) upon receiving written notice of the overpayment from the department; or

(b) upon discovering the overpayment, if that occurs before receiving notice.

(2) (a) Except as provided under Subsection (2)(b), interest on the unreturned balance of the overpayment shall accrue at the rate of 1% a month.

(b) If the overpayment was not the fault of the person receiving it, that person is not liable for interest on the unreturned balance.

(c) In accordance with federal law and rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, an overpayment may be recovered through deductions from cash assistance, General Assistance, SNAP benefits, other cash-related assistance provided to a recipient under this chapter, or other means provided by federal law.

(3) A person who knowingly assists a recipient, provider, or other person in obtaining

an overpayment is jointly and severally liable for the overpayment.

(4) (a) In proving civil liability for overpayment under this section, or Section 35A-3-605, when fault is alleged, the department shall prove by clear and convincing evidence that the overpayment was obtained intentionally, knowingly, recklessly as "intentionally, knowingly, and recklessly" are defined in Section 76-2-103, by false statement, misrepresentation, impersonation, or other fraudulent means, including committing any of the acts or omissions described in Sections 76-8-1203, 76-8-1204, or 76-8-1205.

(b) If fault is established under Subsection (4)(a), Section 35A-3-605, or Title 76, Chapter 8, Part 12, Public Assistance Fraud, a person who obtained or helped another obtain an overpayment is subject to:

(i) a civil penalty of 10% of the amount of the overpayment, except for overpayments related to assistance for child care services; ~~[and]~~

(ii) a civil penalty of 50% of the amount of the overpayment for overpayments related to assistance for child care services;

~~[(ii)]~~ (iii) disqualification from receiving cash assistance from the Family Employment Program created in Section 35A-3-302 and the General Assistance program under Section 35A-3-401, if the overpayment was obtained from either of those programs, for the period described in Subsection (4)(c); ~~[or]~~ and

~~[(iii)]~~ (iv) disqualification from SNAP, if the overpayment was received from SNAP, for the period described in Subsection (4)(c).

(c) Unless otherwise provided by federal law, the period of a disqualification under Subsection (4)(b)~~[(ii)]~~(iii) and ~~[(iii)]~~ (iv) is for:

(i) 12 months for a first offense;

(ii) 24 months for a second offense; and

(iii) permanently for a third offense.

(5) (a) Except as provided under Subsection (5)(b), if an action is filed, the department may recover, in addition to the principal sum plus interest, reasonable attorney fees and costs.

(b) If the repayment obligation arose from an administrative error by the department, the department may not recover attorney fees and costs.

(6) If a court finds that funds or benefits were secured, in whole or part, by fraud by the person from whom repayment is sought, the court shall assess an additional sum as considered

126 appropriate as punitive damages up to the amount of repayment being sought.

127 (7) A criminal action for public assistance fraud is governed by Title 76, Chapter 8,
128 Part 12, Public Assistance Fraud.

129 (8) Jurisdiction over benefits is continuous.

130 (9) This chapter does not preclude the Department of Health from carrying out its
131 responsibilities under Title 26, Chapter 19, Medical Benefits Recovery Act, and Chapter 20,
132 Utah False Claims Act.

133 Section 3. Section **62A-15-118**, which is renumbered from Section 35A-3-802 is
134 renumbered and amended to read:

135 **~~[35A-3-802].~~ 62A-15-118. Safety Net Initiative.**

136 (1) As used in this section, "individuals in underserved communities" means
137 individuals living in culturally isolated communities in the state who may lack access to public
138 assistance and other government services.

139 (2) There is created within the ~~[department]~~ division the Safety Net Initiative to:

140 (a) implement strategies to increase awareness and reduce risk factors in order to
141 improve the safety and well-being of individuals in underserved communities;

142 (b) coordinate with government agencies, nonprofit organizations, and interested
143 individuals to provide open communication with individuals in underserved communities; and

144 (c) coordinate efforts to give individuals in underserved communities needed access to
145 public assistance and other government services.

146 (3) The ~~[department]~~ division may employ or contract with individuals, entities, and
147 support staff as necessary to administer the duties required by this section.

148 Section 4. **Repealer.**

149 This bill repeals:

150 Section **35A-3-801, Title.**